

1  
2  
3  
4  
5  
6  
7  
8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**  
11

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 LUKE BRUGNARA,

16 Defendant.  
17  
18  
19

Case No. 08-CR-00222 WHA

Case No. 14-CR-00306 VC

**ORDER DENYING DEFENDANT'S  
REQUEST FOR PRETRIAL  
RELEASE**

20  
21 Luke Brugnara appeared before the duty Magistrate Judge on June 11, 2014, seeking  
22 to be released from custody while charged in two connected cases. In case number 08-CR-  
23 00222 WHA, Brugnara was previously convicted of three counts of filing a false tax return.  
24 He now faces a petition charging that he violated the terms of his supervised release by  
25 violating a criminal law while on release. In the new case, number 14-CR-00306, Brugnara  
26 is charged by indictment with one count of mail fraud. The fraud alleged in the supervised  
27 release petition and the indictment appears to be the same conduct, namely fraud in the  
28 acquisition of approximately \$11 million in art.

1 Brugnara had a detention hearing in both cases before Magistrate Judge Jacqueline  
2 Scott Corley on May 28 and 30, 2014. At that time, Brugnara was charged by criminal  
3 complaint in the new case and had not been indicted. Judge Corley ordered Brugnara  
4 detained. Dkt. 250. Because he is charged with a supervised release violation, Brugnara  
5 bears the burden of establishing by clear and convincing evidence that he is not a flight risk  
6 or a danger to the community. Fed. R. Crim. P. 32.1; 18 U.S.C. § 3143. Judge Corley  
7 determined that Brugnara did not meet his burden. Dkt. 250. She found that Brugnara had  
8 not established that he could be released safely into the community and that he had not  
9 established that he was amenable to supervision. *Id.* Judge Corley's findings were based in  
10 part on her observations of Brugnara's demeanor at the May 28 and May 30 hearings. *Id.*  
11 Judge Corley also noted that at the time of the detention hearing, Brugnara was unable to  
12 offer any sureties. *Id.* at 2, 3.

13 At Brugnara's request, the undersigned Magistrate Judge held a bail review hearing  
14 on June 11. Brugnara was represented by Assistant Federal Public Defender Brandon  
15 LeBlanc. The United States was represented by AUSA Doug Sprague. The hearing  
16 confirmed that Judge Corley's detention order was correct and that there is no reason to  
17 modify it at this time. Again, Brugnara has not met his burden of establishing by clear and  
18 convincing evidence that he is not a flight risk or a danger to the community.

19 Brugnara did not seek to introduce new evidence to rebut the facts set forth in Judge  
20 Corley's detention order. As a result, there is no need to repeat her analysis. Brugnara  
21 instead suggested two potential sureties, his wife and mother, to secure his release.  
22 Brugnara's mother was not present in court due to an illness. Assuming for purposes of  
23 discussion that his wife and mother would be proper sureties, the Court finds that Brugnara  
24 has not met his burden.


25 Brugnara's courtroom demeanor, as observed by this Magistrate Judge, again  
26 indicated he is not amenable to supervision and that his conduct would not be deterred by a  
27 surety or in-home custodian. Despite repeated admonishments from the Court and his  
28 counsel as to his right to remain silent and the consequences of speaking, Brugnara (who

1 was detained in full physical restraints) could not control his emotions and made statements  
2 on the record against his own interests.

3 Considering all the evidence presented, Brugnara has not met his burden. His motion  
4 for release is denied in both cases. In accordance with 18 U.S.C. § 3142(i), Brugnara is  
5 committed to the custody of the Attorney General for confinement in a corrections facility.

6 IT IS SO ORDERED.

7 Date: June 12, 2014

  
Nathanael M. Cousins  
United States Magistrate Judge